

PT 00-32

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

SALINE COUNTY HISTORICAL SOCIETY)

Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

A.H. Docket # 98-PT-0066

Docket # 96-83-22

Parcel Index # 1-HB-133-07

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Robert C. Wilson, attorney at law, appeared on behalf of the Saline County Historical Society.

Synopsis:

The hearing in this matter was held at the Regional State Office Building, 2309 West Main Street, Marion, Illinois, on October 18, 1999, to determine whether or not Saline County Parcel Index No. 1-HB-133-07 qualified for exemption from real estate taxation for the 1996-assessment year.

Mr. Charles L. Blackman, President of the Saline County Historical Society, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The applicant operates The Saline Creek Pioneer Village Historical Museum (hereinafter referred to as the "Pioneer Village") on a 3.5-acre parcel which it leases from the Harrisburg

Township Park District (hereinafter referred to as the “Park District”).

The parcel

here in issue is a 1.4-acre vacant parcel located north of and across the road to the West from the Pioneer Village.

The issues in this matter include: first, whether the applicant owned Saline County Parcel Index No. 1-HB-133-07 during all or part of the 1996-assessment year; secondly, whether the applicant is a charitable organization; and thirdly, whether the applicant used part or all of this parcel for exempt purposes during all or part of the 1996-assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned Saline County Parcel Index No. 1-HB-133-07 during all of the 1996- assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant used the southerly portion of this parcel between Feazel Street and the Pauper Cemetery and also the westerly portion of this parcel between Barnett Street and the Pauper Cemetery for overflow parking for the Pioneer Village beginning on April 2, 1996. The southerly portion measures 135.41 feet by 162.16 feet and the westerly portion measures 188.00 feet by 113.06 feet.

It is therefore recommended that the southerly portion of Saline County Parcel Index No. 1-HB-133-07 between Feazel Street and the Pauper Cemetery which measures 136.41 feet by 162.16 feet and the westerly portion of this parcel between Barnett Street and the Pauper Cemetery which measures 188.00 feet by 113.06 feet be exempt from real estate taxation for 75% of the 1996-assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the “Department”) in this matter, namely that Saline County Parcel Index No. 1-HB-133-07 was not in exempt ownership and not in exempt use during the 1996-assessment year, was established by the admission in evidence of Department’s Exhibit Nos. 1 through 6A.

2. The applicant was incorporated pursuant to the “General Not For Profit Corporation Act” of Illinois on April 25, 1958, for the following purposes:

Civic, Patriotic, literary and historical education (Dept. Ex. No. 2-0)

3. The applicant acquired the 1.4-acre parcel here in issue pursuant to a quitclaim deed dated December 20, 1995. (Dept. Ex. No. 2C)

4. This 1.4-acre parcel is less than half a block north across Feazel Street from the Pioneer Village. (Dept. Ex. No. 2AQ)

5. On September 1, 1971, the applicant leased the 3.5-acre Pioneer Village parcel from the Park District for a period of 99 years. Pursuant to this lease the applicant agreed to pay rent of one dollar per year to the Park District. (Appl. Ex. No. 8)

6. The buildings in the Pioneer Village include a one-room school, a church from the 1870’s, a thresher’s floor barn, and six or seven log cabins. All of these buildings had been moved onto this parcel from places in southeastern Illinois. They had all been restored and furnished with furniture which dates from the 1840’s and 1850’s. In the center of Pioneer Village is the three story brick Pauper House which was built in 1877. (Tr. pp. 33 & 34, Dept. Ex. No. 2AD)

7. During the 1996-assessment year the sign on the entrance sidewalk into the Pioneer Village stated “donation”. There was a suggested donation of \$2.00 for adults and \$1.00 for children. If a person could not pay a donation they were still given a tour of the Pioneer Village. (Tr. pp. 47-49)

8. At the entrance to Pioneer Village there is parking for only 8 or so vehicles. (Dept. Ex. No. 2U)

9. The 1.4-acre parcel here in issue has never had a building on it. Near the north end of this parcel on the Feazel Street side is a 20-inch storm culvert. This culvert drains the paved parking lot of the Saline County federal housing project which is on the other side of Feazel Street. This culvert empties onto the east side of the parcel here in issue. As a result of the water

flowing through this storm culvert, the north end of the parcel here in issue is low and has suffered surface damage and erosion. During rains, the north end of this parcel is subject to continuous flooding. During June of 1996 the applicant began to put fill dirt on the north end of this parcel. However the use of the north end of this parcel will be limited until such time as the storm culvert is moved. (Tr. pp. 49-51, & Department Exhibit Nos. 2U & 2W)

10. The portions of this parcel which were used for parking by the applicant during 1996 were the southerly portion of this parcel between Feazel Street and the Pauper Cemetery, and the westerly portion of this parcel between Barnett Street and the Pauper Cemetery. The southerly portion measures 136.41 feet by 162.16 feet. The westerly portion measures 113.06 feet by 188.00 feet. (Tr. pp. 49-51, & Department Exhibit Nos. 2U & 2W)

11. The applicant began to use the southerly and the westerly portions of this parcel for overflow parking on April 2, 1996. (Tr. p. 37)

12. The applicant has no capital stock and no stockholders. The officers and directors of the applicant are not compensated for their services. (Tr. pp. 23 & 24)

13. The applicant does not pay dividends to its members. (Tr. p. 25)

14. The membership dues of the applicant are \$10.00 per year. The membership dues are used by the applicant to raise funds. Lifetime members of the applicant are solicited to make a contribution. The applicant does this by an annual letter. The only advantage given to a paid member is the ability to vote for directors. A non-paying member is still allowed to attend meetings and to engage in the other activities of the applicant. (Tr. p. 53)

15. The primary source of income of the applicant during 1996 was donations. These donations came from both persons who wanted to view the museum and from members. The applicant also received a donation from the Park District to help with the upkeep and maintenance of the buildings. (Tr. pp. 53-55, Appl. Ex. 3)

16. The applicant has been determined by the Internal Revenue Service to qualify for exemption from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. (Tr. p. 17, Dept. Ex. No. 2AJ)

17. The applicant has also been determined by the Department to be a charitable organization for sales tax purposes. (Tr. p. 17, Dept Ex. No. 2AK)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to this constitutional grant of authority, the General Assembly has enacted property tax exemption provisions. Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States. . . .

Parking areas may qualify for exemption from property taxation, if they meet the criteria set forth in 35 **ILCS** 200/15-125, which exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County

Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989); and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof is on the applicant to establish that it is entitled to an exemption.

The applicant acquired this parcel pursuant to a quitclaim deed dated December 20, 1995. I therefore conclude that the applicant owned this parcel during the entire 1996- assessment year. The applicant began to use this parcel on April 2, 1996, for overflow parking for Pioneer Village. To qualify for exemption, 35 ILCS 200/15-125 requires that a parcel actually be used for parking as well as other criteria.

The applicant submitted a copy of its Internal Revenue Service 501(c)(3) exemption letter and its Retailers' Occupation Tax exemption letter and alleged that based on these determinations that it qualified as a charitable organization for property tax exemption purposes. In the case of In re Application of Clark v. Marion Park, 80 Ill.App.3d 1010 (2nd Dist. 1980), the Court stated that exemption from federal income tax and state sales and use tax is not determinative of whether a property is used for charitable purposes. *See also* People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill.2d 450 (1970).

In the case of Vermilion County Museum Society v. Department of Revenue, 273 Ill.App.3d 675 (4th Dist. 1995), the Court determined that a museum may qualify for a property tax exemption as a charitable organization and that a parking lot used in conjunction with that museum may also qualify for a property tax exemption.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an

organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits.

Since the applicant merely solicits and collects a donation from persons who wish to view the museum, I conclude that the benefits derived are for an indefinite number of persons, charity is dispensed to all who need and apply for it, and no obstacles are placed in the way of those seeking the benefits. The applicant I conclude has no capital, capital stock, or shareholders, and does not profit from the enterprise. The applicant's funds, I conclude are derived mainly from private and public charity and are held in trust for the objects and purposes expressed in its charter.

The membership dues are another matter. The memberships are a method of fundraising and being unable to pay the dues only prevents a person from voting for directors at the annual meeting of the applicant. It does not prevent a person from engaging in the other activities of the applicant. It therefore is not determinative of the question of whether the applicant is a charitable organization. *See Vermilion County Museum Society v. Department of Revenue, supra.*

I therefore conclude that the applicant has established that it is a charitable organization.

Due to the presence of the 20-inch storm culvert near the North end of this parcel, which drains the paved parking lot of the Saline County federal housing project, I conclude that this portion of this parcel was not usable during 1996 because it became flooded every time it rained. I therefore conclude that this portion of the property at issue does not qualify for exemption.

I also conclude that the southerly portion of Saline County Parcel Index No. 1-HB-133-07 between Feazel Street and the Pauper Cemetery, and the westerly portion of this parcel between Barnett Street and the Pauper Cemetery, qualified for exemption from real estate

taxation for the period that it was used for overflow parking by the Pioneer Village. The time period of qualification was from April 2, 1996, through December 31, 1996. The southerly portion measures 136.41 feet by 162.16 feet. The westerly portion measures 188.00 feet by 113.06 feet.

I therefore recommend that the southerly portion of Saline County Parcel Index No. 1-HB-133-07 between Feazel Street and the Pauper Cemetery, which measures 136.41 feet by 162.16 feet, and the westerly portion of this parcel between Barnett Street and the Pauper Cemetery, which measures 188.00 feet by 113.06 feet be exempt from real estate taxation for 75% of the 1996-assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
May 16, 2000